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Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.ID which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the

Instruction, from further environmental documentation.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1(g); Department of Homeland Security Delegation No. 0170.1

■ 2. From 7 a.m. on December 7, 2007, through sunset on April 30, 2008, § 117.261(qq) is suspended and § 117.261(uu) is added to read as follows:

§ 117.261 Atlantic Intracoastal Waterway.

* * * * *

(uu) Jewfish Creek Bridge, mile 1134, Key Largo. The draw shall open on signal, except that from 7 a.m. to sunset, the bridge shall open on the hour and half-hour.

* * * * *

Dated: November 23, 2007.

William Lee,

Capt. USCG, District Commander, Seventh Coast Guard District, Acting.

[FR Doc. E7-23600 Filed 12-6-07; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF EDUCATION

34 CFR Part 75

RIN 1890-AA15

[Docket ID ED-2007-OCFO-0132]

Direct Grant Programs

AGENCY: Office of the Chief Financial Officer, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the Department's regulations governing the determination and recovery of indirect costs by grantees. These amendments address procedural aspects related to the establishment of temporary indirect cost rates, specify the temporary rate that will apply to grants generally, and clarify how indirect costs are determined for a group of applicants that apply for a single training grant.

DATES: These regulations are effective January 7, 2008.

FOR FURTHER INFORMATION CONTACT: Richard Mueller, U.S. Department of Education, 830 First Street, NE., room

21C7, Washington, DC 20202-4450. Telephone: (202) 377-3838 or via the Internet: *Richard.Mueller@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1-800-877-8339.

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SUPPLEMENTARY INFORMATION: On May 24, 2007, the Secretary published a notice of proposed rulemaking (NPRM) for these amendments in the **Federal Register** (72 FR 29097). In the preamble to the NPRM, the Secretary discussed on pages 29098 and 29099 the major changes proposed to the current regulations. These changes are summarized as follows:

- Amending § 75.560(c) and (d) to specify the procedures used to establish a temporary indirect cost rate for any grantee that does not have a federally recognized indirect cost rate.
- Amending § 75.562(c) to clarify that a grantee cannot include the amount of a sub-award¹ that exceeds \$25,000 in the modified total direct cost base used to determine and charge its indirect cost rate.
- Amending § 75.564(e) to clarify the determination of indirect costs for a training grant in the context of a grant to a group of organizations that apply together for a grant under the procedures in §§ 75.127 through 75.129.

These final regulations provide a temporary indirect cost rate to a grantee that does not have a federally recognized indirect cost rate on the date the Department awards its first grant. The temporary rate for such a grantee will be 10 percent of the direct salaries and wages of the project. These regulations permit the use of a temporary indirect cost rate under the grant award for the first 90 days after the date the Department issues the Grant Award Notification. A grantee may continue to charge indirect costs at the temporary rate after the first 90 days if the grantee submits a formal indirect cost proposal to its cognizant agency within those 90 days. If, after the 90-day period, a grantee has not submitted an indirect cost proposal to its cognizant

agency, it must stop using the temporary rate. After that period, the grantee will not be allowed to charge any indirect costs to its grant until it obtains a federally recognized indirect cost rate from its cognizant agency.

These regulations make the Department's practice consistent with the practice of other Federal agencies and reduce the number of improper payments that result when applicants budget indirect costs that are greater than the actual indirect costs the applicant can expect to recover under Federal cost principles. As explained in the NPRM, under the Department's prior practice, new grantees of the Department were not recovering any indirect costs until they negotiated an indirect cost rate with their cognizant agencies. These regulations now enable a new grantee to recover indirect costs at the temporary rate until it negotiates a rate with its cognizant agency or for 90 days if it does not submit its indirect cost rate proposal to its cognizant agency within the 90-day period.

The regulations also clarify how the modified total direct cost base is determined when a grant is subject to the eight percent indirect cost rate limitation for training grants and specify how to treat sub-awards (contracts) if the indirect cost rate is applied to a grant made to a group under the procedures in §§ 75.127 through 75.129.

Analysis of Comments and Changes

In the NPRM we invited comments on the proposed regulations. We did not receive any comments. There are no substantive differences between the NPRM and these final regulations. However, we have reviewed the regulations since publication of the NPRM and have made the following technical changes:

- We revised § 75.560(d)(3)(i) by deleting the words "after the date the indirect cost proposal was submitted to the cognizant agency" because this description of the period during which a grantee may recover costs at the negotiated rate is stated in paragraph (d)(3). The revised paragraph (d)(3)(i) simply states that the total amount of funds recovered by the grantee under the federally recognized indirect cost rate is reduced by the amount of indirect costs "previously recovered under the temporary indirect cost rate." We believe these changes make the paragraph easier to understand.
- We added a note following § 75.562(c)(1) to clarify that, for any grantee that did not have a federally recognized indirect cost rate on the date its training grant was awarded, the indirect costs recovered under the

training grant limitation in § 75.562(c)(1) are also subject to the limitations in § 75.560(d)(3).

Also, as a result of our internal review, we have concluded that changes similar to those reflected in these final regulations also should be made to 34 CFR part 76, which applies to State-administered programs of the Department. Therefore, soon we intend to propose changes to part 76 that are consistent with the changes in these regulations.

Transition Issues

Because the regulations authorizing a specified temporary indirect cost rate confer a benefit on new grantees, the Secretary has discretion to apply the regulations to grants made before the effective date of these regulations. Under the final regulations, a grantee must submit a formal indirect cost proposal to its cognizant agency within 90 days after the date the Department issues the Grant Award Notification (GAN). However, we are aware that some new grantees are currently in the first budget period of their grants and do not have Federally recognized indirect cost rates. These grantees would benefit from being able to use the temporary indirect cost rate as soon as these regulations become effective in 30 days. Accordingly, any grantee that was or is issued a GAN before these regulations become effective on January 7, 2008, is in the first budget period of its grant, and did not have a federally recognized indirect cost rate on the date the GAN was issued, may begin using the temporary indirect cost rate starting on the effective date of these regulations and will have until April 7, 2008 (90 days after the effective date of these final regulations) to submit a formal indirect cost proposal to its cognizant agency. If a grantee submits an indirect cost proposal within the 90 days after the regulations become effective, it may continue charging at the temporary rate until it obtains a federally recognized indirect cost rate. The Secretary takes this action so that new grantees may benefit from these amendments as soon as possible.

Finally, § 75.562(c)(2) requires grantees to exclude all contract costs in excess of \$25,000 from the base used to calculate the total indirect cost recovery under a training grant. This exclusion will apply to the first training grant (new or continuation) made to a grantee after the date these regulations become effective.

Executive Order 12866

We have reviewed these final regulations in accordance with

¹ The term "sub-award," as used in the final regulations, covers both subgrants and contracts made under a grant. However, as explained in the NPRM, because virtually all of the Department's discretionary grant programs do not authorize grantees to award subgrants, we describe the effect of the final regulations only on contracts awarded by grantees.

Executive Order 12866. Under the terms of the order we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the final regulations are those resulting from statutory requirements and those we have determined to be necessary for administering the Department's Direct Grant programs effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this regulatory action, we have determined that the benefits would justify the costs.

Summary of potential costs and benefits.

These regulations impose no additional burdens on applicants for discretionary grants or recipients of those grants. The regulations merely specify the rate at which grantees can recover indirect costs during a temporary period when the grantee does not have an indirect cost rate recognized by the Federal Government and establish procedural requirements regarding temporary indirect cost rates. While these final regulations prohibit a grantee from recovering indirect costs if the grantee has not submitted its indirect cost proposal within the 90 days after the date the Department issues the GAN, the burden and timing of submitting an indirect cost rate proposal under the procedures in the Federal cost principles do not change at all.

Paperwork Reduction Act of 1995

These regulations do not contain any information collection requirements.

Intergovernmental Review

These regulations affect Direct Grant programs of the Department that are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and to strengthen federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for these programs.

Assessment of Educational Impact

In the NPRM we requested comments on whether the proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Based on the response to the NPRM and on our review, we have determined that these final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

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(Catalog of Federal Domestic Assistance Number does not apply.)

List of Subjects in 34 CFR Part 75

Administrative practice and procedure, Education Department, Grant programs—education, Grant administration, Performance reports, Reporting and recordkeeping requirements, Unobligated funds.

Dated: December 4, 2007.

Margaret Spellings,
Secretary of Education.

■ For the reasons discussed in the preamble, the Secretary amends part 75 of title 34 of the Code of Federal Regulations as follows:

PART 75—DIRECT GRANT PROGRAMS

■ 1. The authority citation for part 75 continues to read as follows:

Authority: 20 U.S.C. 1221e-3 and 3474, unless otherwise noted.

■ 2. Section 75.560 is amended by revising paragraphs (b) and (c), redesignating paragraph (d) as paragraph (e), and adding a new paragraph (d) to read as follows:

§ 75.560 General indirect cost rates; exceptions.

* * * * *

(b) A grantee must have obtained a current indirect cost rate agreement from its cognizant agency, to charge indirect costs to a grant. To obtain an

indirect cost rate, a grantee must submit an indirect cost proposal to its cognizant agency within 90 days after the date the Department issues the Grant Award Notification (GAN).

(c) If a grantee does not have a federally recognized indirect cost rate agreement, the Secretary may permit the grantee to charge its grant for indirect costs at a temporary rate of 10 percent of budgeted direct salaries and wages.

(d)(1) If a grantee fails to submit an indirect cost rate proposal to its cognizant agency within the required 90 days, the grantee may not charge indirect costs to its grant from the end of the 90-day period until it obtains a federally recognized indirect cost rate agreement applicable to the grant.

(2) If the Secretary determines that exceptional circumstances warrant continuation of a temporary indirect cost rate, the Secretary may authorize the grantee to continue charging indirect costs to its grant at the temporary rate specified in paragraph (c) of this section even though the grantee has not submitted its indirect cost rate proposal within the 90-day period.

(3) Once a grantee obtains a federally recognized indirect cost rate that is applicable to the affected grant, the grantee may use that indirect cost rate to claim indirect cost reimbursement for expenditures made on or after the date the grantee submitted its indirect cost proposal to its cognizant agency or the start of the project period, whichever is later. However, this authority is subject to the following limitations:

(i) The total amount of funds recovered by the grantee under the federally recognized indirect cost rate is reduced by the amount of indirect costs previously recovered under the temporary indirect cost rate.

(ii) The grantee must obtain prior approval from the Secretary to shift direct costs to indirect costs in order to recover indirect costs at a higher negotiated indirect cost rate.

(iii) The grantee may not request additional funds to recover indirect costs that it cannot recover by shifting direct costs to indirect costs.

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■ 3. Section 75.562 is amended by revising paragraph (c) to read as follows:

§ 75.562 Indirect cost rates for educational training projects.

* * * * *

(c)(1) Indirect cost reimbursement on a training grant is limited to the recipient's actual indirect costs, as determined in its negotiated indirect cost rate agreement, or eight percent of a modified total direct cost base, whichever amount is less.

Note to paragraph (c)(1): If the grantee did not have a federally recognized indirect cost rate agreement on the date the training grant was awarded, indirect cost recovery is also limited to the amount authorized under § 75.560(d)(3).

(2) For the purposes of this section, a modified total direct cost base consists of total direct costs minus the following:

(i) The amount of each sub-award in excess of \$25,000.

(ii) Stipends.

(iii) Tuition and related fees.

(iv) Equipment, as defined in 34 CFR 74.2 and 80.3, as applicable.

Note to paragraph (c)(2)(iv): If the grantee has established a threshold for equipment that is lower than \$5,000 for other purposes, it must use that threshold to exclude equipment under the modified total direct cost base for the purposes of this section.

(3) The eight percent indirect cost reimbursement limit specified in paragraph (c)(1) of this section also applies to sub-awards that fund training, as determined by the Secretary under paragraph (b) of this section.

(4) The eight percent limit does not apply to agencies of State or local governments, including federally recognized Indian tribal governments, as defined in 34 CFR 80.3.

(5) Indirect costs in excess of the eight percent limit may not be charged directly, used to satisfy matching or cost-sharing requirements, or charged to another Federal award.

* * * * *

■ 4. Section 75.564 is amended by revising paragraph (e) to read as follows:

§ 75.564 Reimbursement of indirect costs.

* * * * *

(e)(1) Indirect costs for a group of eligible parties (See §§ 75.127 through 75.129) are limited to the amount derived by applying the rate of the applicant, or a restricted rate when applicable, to the direct cost base for the grant in keeping with the terms of the applicant's federally recognized indirect cost rate agreement.

(2) If a group of eligible parties applies for a training grant under the group application procedures in §§ 75.127 through 75.129, the grant funds allocated among the members of the group are not considered sub-awards for the purposes of applying the indirect cost rate in § 75.562(c).

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[FR Doc. E7-23817 Filed 12-6-07; 8:45 am]

BILLING CODE 4000-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2007-1059-200748a; FRL-8503-1]

Approval and Promulgation of Implementation Plans Georgia: Enhanced Inspection and Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Georgia State Implementation Plan (SIP), submitted by the Georgia Department of Natural Resources (GA DNR), through the Georgia Environmental Protection Division (GA EPD), on September 26, 2007. The revisions include modifications to Georgia's Air Quality Rules found at Chapter 391-3-20-.21, pertaining to rules for Enhanced Inspection and Maintenance (I/M). Enhanced I/M was required for 1-hour nonattainment areas classified as serious and above, under the Clean Air Act (CAA) as amended in 1990. The I/M program is a way to ensure that vehicles are maintained properly and verify that the emission control system is operating correctly, in order to reduce vehicle-related emissions. This action is being taken pursuant to section 110 of the CAA.

DATES: This direct final rule is effective February 5, 2008 without further notice, unless EPA receives adverse comment by January 7, 2008. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number, "EPA-R04-OAR-2007-1059," by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail*: harder.stacy@epa.gov.
3. *Fax*: 404-562-9019.
4. *Mail*: "EPA-R04-OAR-2007-1059," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.
5. *Hand Delivery or Courier*: Stacy Harder, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such

deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

Instructions: Direct your comments to Docket ID Number, "EPA-R04-OAR-2007-1059." EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

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